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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,394	04/02/2004	Kathy L. Baker	29146.0002	2936
65039 7590 07/21/2009 SHUTTS & BOWEN, LLP 100 S. ASHLEY DRIVE SUITE 1500 TAMPA, FL 33602				
EXAMINER				
HALE, GLORIA M				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
07/21/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/817,394

**Applicant(s)**

BAKER, KATHY L.

**Examiner**

Gloria Hale

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7-18-07 RCE/.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20 and 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20 and 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 20 the preamble claims the device as being a "clothing strap tensioning device". However, applicant has not claimed the structure of the device as including elements that provide the tensioning as stated in the preamble. For the tensioning device to provide the claimed tension as stated in the preamble the length of the strap must be limited to a certain length to provide such tensioning. Without the limited length of the elastic member the garment straps would not be under tension. Also it is not clear as to what "straps" on the clothing are under tension. The clothing apparel with the rear should straps must be claimed in combination with the device. Otherwise the device would not be limited to clothing strap holding members but to any strap classified in any classification such as garbage bag ties, suitcase handle ties or any other tying strap member. In claim 20, line 12 after "wherein" insert -- each of -- and change "portion" to -- portions -- and after "upwardly" insert -- and perpendicularly --. In claim 20, last line before "straps" insert -- clothing --. The above language also needs to be included in the specification and also in Applicant's next remarks applicant needs to state that the added language is seen and supported by the figures.

In claim 22 it is not clear as to where in the specification it is stated that the "length of the middle portion is approximately equal to the combined lengths of the left and right end portions". The figures are not to scale and it is not clear if the lengths are structured as claimed. In regard to claim 24 it is not clear as to how the elastic member is slidable as claimed when it is structured of an elastic material that would catch onto the other fabric of the clothing straps. It is not clear as to where in the specification it is stated that the elastic member is slidable along the length of the clothing straps as now claimed or as to what allows for the sliding. Claim 26 appears to claim a second embodiment that was not elected and wherein the claim was included in error. Only the loose strap that extends about or encircles the shoulder straps of a garment has been elected. If this claim is not canceled in the next response the election /restriction will have to be repeated in the next office action thereafter.

In claim 27, lines 5 and 9 after "upwardly" include – in the same plane-- and in the last line before "straps" include - - clothing- - . Claim 27 is also not clear for the same reasons as stated in regard to claim 20 and it's preamble concerning the "tensioning" of the clothing straps. The garment/clothing/apparel straps should be added to the claim in combination with the device as discussed above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 20 and 22-27 in regard to the Speelman reference have been considered . The addition of the claim language that describes the upwardly extending portions of the device while lying in the same plane overcomes the straight Speelman configuration. However, applicant's claims still

need to define the tensioning of the device around the garment shoulder straps in use. Also in order to differentiate applicant's device from any other straps/device used to tie garbage bags, suitcase straps or handles or any other elements together, applicant will need to claim an apparel or garment shoulder straps configuration in combination with the device itself and also to claim the structure that allows for the tensioning about the user's straps. The specific length of the device so that it is only long to encircle shoulder straps has not been claimed or disclosed other than being seen in the figures in use. Applicant's needs to point out in their remarks where in the specification there is support for each of the newly claimed elements of claims 22-27.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Mon.-Thurs.,...

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gloria Hale/  
Primary Examiner, Art Unit 3765

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